
A Bus Tour of Chicago-Style Fraud



CONTENTS

I.	Executive Summary.....	3
II.	Findings.....	3
III.	Background.....	4
IV.	Overreporting of Vehicle Revenue Miles by the Chicago Transit Authority.....	5
V.	The Department of Transportation's Knowledge of CTA's Over-Statement of Its VRM Data.....	8
VI.	Cause of Action's Investigation.....	10
VII.	Conclusion	12

I. EXECUTIVE SUMMARY

Cause of Action (CoA), a nonprofit, nonpartisan organization that uses investigative, legal, and communications tools to educate the public on how government accountability and transparency protects taxpayer interests and economic opportunity, has uncovered the potential of up to \$150 million in taxpayer funds improperly being awarded to the Chicago Transit Authority (CTA) due to CTA's potentially fraudulent reporting dating as far back as 1982 and possibly continuing to the present.

CoA obtained a 2007 report related to an audit of CTA in which the transit agency is found to have been overreporting Vehicle Revenue Miles (VRM), resulting in the disbursement of a larger share of available federal U.S Department of Transportation (DOT) grant funds than it was entitled to receive. This report shows that in fiscal year 2006 alone, CTA may have received as much as \$1 million to potentially over \$5 million in excess grant funding.

While the grant amount disbursed due to VRM data is not available for all years between 1982 and 2012, the 2007 report implies that similar amounts were likely overstated in previous years. If each year's excess was at least \$1 million and up to \$5 million, the CTA could potentially have fraudulently claimed and received \$30 to \$150 million in taxpayer funds.

While Calvin L. Scovel, the DOT Inspector General (IG), and the U.S. House of Representatives, Committee on Government Oversight and Reform (Oversight Committee) were informed of the fraud in 2009 and 2011, respectively, to our knowledge no federal investigations have taken place.

The following report outlines findings of the 2007 report, internal emails between the U.S. House Oversight Committee and Inspector General Scovel, information on Freedom of Information Act requests sent by Cause of Action to the DOT, and a request for investigation to the Department of Justice concerning the fraudulent behavior by the CTA. CoA's investigation has uncovered that no evidence exists of the DOT's taking action to investigate potential fraud, and numerous federal offices have now failed to engage in proper oversight of this grant money as well as CTA's reporting.

These years of potential corruption have occurred under the watch of numerous individuals with direct connections to the Department of Transportation or other facets of the current presidential administration. These individuals include Robert S. Rivkin, the current General Counsel of the U.S. Department of Transportation, and Valerie Jarrett, Senior Advisor to the President.

Cause of Action presents this data to educate the public on potential waste, fraud, and corruption within the Chicago Transit Authority's U.S. taxpayer-funded program.

II. FINDINGS

- The Chicago Transit Authority (CTA) has potentially received millions of dollars in excess federal transit grant money as a result of its fraudulent misreporting of Vehicle Revenue Miles (VRM) to the National Transit Database (NTD), dating back as far as 1982. A 2007 report in connection with an audit of the CTA found the transit agency was overreporting its bus VRM when making its annual certifications to the NTD. CTA's overreporting of VRM in its NTD certifications resulted in CTA receiving a larger portion of the share of available funds than it was entitled to receive. For the 2006 fiscal year alone, CTA was estimated to have received between one million to more than five million dollars in excess grant funding. Despite report findings reflecting false reporting, the Illinois Auditor General declined to report CTA's overstatements of

VRM to the Department of Transportation (DOT).

- Since at least 2009, the DOT Office of Inspector General (IG) has had knowledge of fraudulent reporting by the CTA. In 2011, when informed of CTA fraud by the U.S. House of Representatives, Committee on Government Oversight and Reform (Oversight Committee), Calvin L. Scovel, the DOT IG stated he would review the matter. However, on May 24, 2011, Peter Rogoff, Administrator of the Federal Transit Administration (FTA), stated to Oversight Committee staffers that several individuals employed by DOT would have to be recused from the matter.
- Evidence of fraud has been provided to the Department of Transportation, the Department of Transportation Office of Inspector General and the Department of Justice (DOJ), yet there is no evidence that a federal investigation has commenced. On March 28, 2012, Cause of Action (CoA) asked the DOJ to investigate fraud by the CTA. On September 7, 2012, CoA sought records from the DOT and DOT OIG concerning DOT OIG's investigation (or lack thereof) of CTA's reporting of bus vehicle revenue miles. Despite the urgent public interest in this information, CoA's requests for expedited processing were denied.
- This failure on the part of multiple government agencies to hold CTA accountable is particularly troubling in light of the fact that CTA's General Counsel from 2001-2004, Robert Rivkin, is the current General Counsel of the DOT, and Valerie Jarrett, Chair of the CTA from 1995 to 2003, is a Senior Advisor to President Obama.

III. BACKGROUND

The Federal Transit Administration (FTA) of the United States Department of Transportation (DOT) administers formula grants for transit systems under the Urbanized Area Formula Program (UAFP). In general, the UAFP provides federal grants to fund capital and operating expenses of transit programs in urbanized areas.¹ Recipients of these grants are required by statute to submit data regarding their transit systems to the National Transit Database (NTD) and to certify that such information is correct.² There are currently over 660 transit systems that report data to the NTD.³ The data reported to NTD is then used to apportion over \$5 billion each year in grant funds for transit agencies in "urbanized areas."⁴

The portion of allocated grant funds to which each area with a population greater than 200,000 is entitled depends, in part, on the ratio between its "total bus vehicle revenue miles . . . divided by the total bus vehicle revenue miles attributable to all areas."⁵ For example, as a result of the total number of Vehicle Revenue Miles (VRM) reported for buses by all areas in 2004, each mile was worth thirty-eight cents (\$0.38).⁶ Thus, an area

¹ 49 U.S.C. § 5307. *See also* U.S. Dep't of Transp., Fed. Transit Admin., *Urbanized Area Formula Program (5307)*, FTA.DOT.GOV, http://www.fta.dot.gov/grants/13093_3561.html (last visited Oct. 15, 2012).

² 49 U.S.C. § 5335(b). *See also* Nat'l Transit Database, Fed. Transit Admin., *What is the NTD Program?*, NTDPROMGRAM.GOV, <http://www.ntdprogram.gov/ntdprogram/ntd.htm> (last visited Oct. 15, 2012) [hereinafter NTD website].

³ NTD website, *supra* note 2.

⁴ *Id.*

⁵ 49 U.S.C. §§ 5336(a)(2), (c)(1). The portion of funds to which an area is entitled also depends on such factors as the number of "bus passenger miles," "fixed guideway revenue vehicle miles," and "fixed guideway directional route miles." *Id.* §§ 5336(c)(2), (b).

⁶ [REDACTED AUDITOR], CHICAGO TRANSIT AUTH. OVERREPORTING OF MOTOR BUS VEHICLE REVENUE MILES 1(2007) (attached hereto as Exhibit 4); ILL. OFFICE OF THE AUDITOR GEN., PERFORMANCE AUDIT MASS TRANSIT AGENCIES OF NORTHEASTERN ILLINOIS: RTA, CTA,

that reports a greater number of VRM drives down the value per mile and receives a greater piece of the “pie” of the funds that are allocated on the basis of bus VRM, all other things being equal.

IV. OVERREPORTING OF VEHICLE REVENUE MILES BY THE CHICAGO TRANSIT AUTHORITY

Finding: *The Chicago Transit Authority (CTA) has potentially received millions in dollars of excess federal transit grant dollars as a result of its fraudulent misreporting of Vehicle Revenue Miles (VRM) to the National Transit Database (NTD), dating back as far as 1982. A 2007 report in connection with an audit of the CTA found the transit agency was overreporting its bus VRM when making its annual certifications to the NTD. CTA’s overreporting of VRM in its NTD certifications resulted in CTA receiving a larger portion of the share of available funds than it was entitled to receive. For the 2006 fiscal year alone, CTA was estimated to have received between one million to more than five million dollars in excess grant funding allocation. Despite report findings reflecting false reporting, the Illinois Auditor General declined to report CTA’s overstatements of VRM to the Department of Transportation (DOT).*

During a 2007 audit of the Chicago Transit Authority (CTA), an outside auditor retained by the Illinois Auditor General, concluded that the transit agency was overreporting its bus Vehicle Revenue Miles (VRM) when making its annual certifications to the NTD.⁷ The auditor’s report outlined the concern about how the CTA was accounting for VRM:⁸

METRA, & PACE 72 ex. 3-19 (Mar. 2007), available at <http://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/07-Mass-Transit-NE-IL-Perf-Main-Report.pdf>; Redacted E-mail to Calvin L. Scovel, et al., Dep’t of Transp. Inspector Gen. (May 3, 2011, 07:27 PM) [hereinafter May 3 E-mail] (attached hereto as Exhibit 2); E-mail from Calvin L. Scovel, Dep’t of Transp. Inspector Gen. to Peter Rogoff, Fed. Transp. Admin., et. al., (carbon copy) (May 4, 2011, 04:59 AM) [hereinafter May 4 E-mail] (attached hereto as Exhibit 2); E-mail from Peter Rogoff, Dep’t of Transp., to Calvin L. Scovel, Dep’t of Transp. Inspector Gen. (May 24, 2011, 01:17 PM) [hereinafter Rogoff May 24 E-mail] (attached hereto as Exhibit 2); E-mail from Calvin L. Scovel, Dep’t of Transp. Inspector Gen. to Peter Rogoff, Dep’t of Transp. (May 24, 2011, 06:12 PM) [hereinafter Scovel May 24 E-mail] (attached hereto as Exhibit 2).

⁷ See, e.g., AUDITOR, *supra* note 6 at 1-2, 23. As explained further herein, this report was prepared by the auditor as part of his engagement and given to the Illinois Auditor General’s Office. AUDITOR Aff. ¶ 5 (attached hereto as Exhibit 3). Auditors were first alerted to the potential for CTA’s reporting errors when they noticed that another of CTA’s reported statistics, “deadhead ratio,” was drastically smaller than that of other transit agencies. AUDITOR, *supra* note 6 at 5-7, 13, 16 n.13, 19. In general, the lower a transit system’s “deadhead,” the higher its VRM. Strangely, when CTA’s surprisingly low “deadhead ratio” data was discussed by officials from the Department of Transportation (DOT) and the NTD, they declined to conduct an independent analysis of the issue, and instead relied on the work of others in accepting CTA’s explanation for the anomaly. *Id.* at 12-14.

⁸ *Id.* at 1.

CHICAGO TRANSIT AUTHORITY OVERREPORTING OF MOTOR BUS VEHICLE REVENUE MILES

SUMMARY

The Chicago Transit Authority (CTA) appears to have been improperly classifying as Vehicle Revenue Miles (VRM) and Vehicle Revenue Hours (VRH) motor bus miles and hours that, under the Federal Transit Administration's (FTA) National Transit Database (NTDB) regulations, are not properly so classed.

As explained above, CTA's overreporting of VRM in its NTD certifications likely resulted in CTA receiving a larger portion of the share of available funds than it was entitled to receive. The auditor roughly estimated the impact to be "**between well over one million to more than five million dollars in excess grant funding allocation,**" in fiscal year 2006 alone, although he noted that it is difficult to quantify the monetary effect of CTA's overstatement.⁹ For previous years, the excess grant funding allocation was estimated to be "similar or slightly smaller amounts," potentially going back as far as 1982:¹⁰

generated approximately 38¢ in grant funding in Federal fiscal year 2006 (FY06). It is not possible to determine the precise fiscal impact of this overstatement of VRM without substantial detail analysis which is not within our scope of work, but it is likely that impact is between well over one million to more than five million dollars in excess grant funding allocation to this region in FY06, with generally similar or slightly smaller amounts each preceding year since the introduction of VRM as a formula grant "driver" following the passage of the Federal Surface Transportation

Specifically, the term "Vehicle Revenue Miles" (VRM) is defined as follows: "The miles that vehicles are scheduled to or actually travel while in *revenue service*."¹¹ The definition includes layover and recovery time and excludes "Deadhead," "Operator training," "Vehicle maintenance testing," and "School bus and charter services." "Revenue Service" is, in turn, defined as: "The time when a vehicle is available to the general public and there is an expectation of carrying passengers."¹² Like that for VRM, the definition for Revenue Service includes layover and recovery time and excludes "Deadhead," "Operator training," "Vehicle maintenance testing," and "School bus and charter services." Additionally, "Bus" is defined as "A transit mode comprised of rubber-tired passenger vehicles *operating on fixed routes and schedules* over roadways."¹³ Taken together, this means that in order for mileage driven by a particular bus to count toward VRM, the following must be

9 *Id.* (emphasis added).

10 *Id.*

11 FEDERAL TRANSIT ADMINISTRATION, 2006 URBANIZED AREA REPORTING MANUAL, Glossary 396 (2006) [hereinafter NTD MANUAL, GLOSSARY], http://www.ntdprogram.gov/ntdprogram/pubs/ARM/2006/pdf/2006_Reportin... (emphasis added). The National Transit Database (NTD) is analyzed and used by the FTA in four manuals, including the Urbanized Area Reporting Manual which was used as a resource here.. NTD regulations incorporate by reference the definitions contained in NTD's reporting manual. 49 C.F.R § 630.3(b). This definition, along with others used in this report was taken from the 2006 manual. To our knowledge such definitions have remained materially unchanged since at least 2006, the year of the oldest NTD manual available on its website, and probably since the implementation of VRM as a component of the grant formula in connection with enactment of the Federal Surface Transportation Assistance Act of 1982.

12 NTD MANUAL, GLOSSARY, *supra* note 11 at 384.

13 *Id.* at 348(emphasis added).

present: the bus must be driven on a fixed route and schedule; and the bus must be available to the public with an expectation of carrying passengers.

On the other hand, “deadhead miles” are defined as: “The miles and hours that a vehicle travels when out of revenue service,” and includes miles spent “[l]eaving or returning to the garage or yard facility,” “[c]hanging routes,” and “[w]hen there is no expectation of carrying revenue passengers.”¹⁴ Although the definition for VRM specifically excludes “deadhead,” there is no requirement that a particular segment of mileage be classified as either VRM or “deadhead miles,” if it does not fall squarely within either definition.

Notwithstanding these clear regulatory definitions, CTA included within its certification of VRM data, miles that were plainly not allowable. Specifically, CTA included miles that its buses drove between the storage and/or operating facilities and the beginning or end of a scheduled route, and/or between multiple scheduled bus routes, despite the fact that CTA had no established schedules or routes for such bus operations.¹⁵ CTA justified its inclusion of these miles in its VRM data by alleging that before, after, and between scheduled routes, its buses bear a sign that says “In Service” and that there is a policy of picking up passengers during this time.¹⁶ CTA apparently argues that as a result of its policy of picking up passengers before, after, and between scheduled routes, such miles cannot properly be classified as “deadhead miles,” and must therefore automatically be includable in VRM.

CTA is mistaken. CTA completely ignores the clear regulatory requirement that bus VRM’s be in connection with a fixed route *and* schedule, as well as erroneously assumes that any mileage not properly classified as “deadhead” must *ipso facto* be includable as VRM. Because, as explained above, reporting a larger number of VRM results in receiving a larger portion of the available “pie,” CTA has been receiving a greater portion of available funds than it would have had it properly reported its VRM data. During the course of his work on the audit, the auditor informed CTA of its erroneous reporting of VRM.¹⁷ Rather than attempt to correct its mistake, CTA offered several contrived arguments in support of its position, thereby demonstrating that it was more concerned with its fraudulently-inflated VRM statistics than compliant reporting.¹⁸ When CTA was generally unresponsive to the auditor’s concerns, he prepared a formal report which he submitted to the Illinois Office of Auditor General.¹⁹ His report’s conclusions mirrored much of what is outlined above.

14 *Id.* at 352.

15 AUDITOR, *supra* note 6 at 1, 19-21.

16 *Id.* 13, 19-21.

17 E-mail from [redacted] to [redacted] (May 3, 2011, 6:15 PM) [hereinafter Auditor May 3 E-mail] (attached hereto as Exhibit 2).

18 See, e.g., ILL. OFFICE OF THE AUDITOR GEN., *supra* note 6 at 1-6, 286-94; Auditor May 3 E-mail, *supra* note 17.

19 See generally AUDITOR, *supra* note 6; Auditor May 3 E-mail, *supra* note 17;) Auditor Aff. ¶¶ 5, 6.

V. THE DEPARTMENT OF TRANSPORTATION'S KNOWLEDGE OF CTA'S OVER-STATEMENT OF ITS VRM DATA

Finding: *Since at least 2009, the DOT Office of Inspector General (IG) has had knowledge of fraudulent reporting by the CTA. In 2011, when informed of CTA fraud by the U.S. House of Representatives, Committee on Government Oversight and Reform (Oversight Committee), Calvin L. Scovel, the DOT IG stated he would review the matter. However, on May 24, 2011, Peter Rogoff, Administrator of the Federal Transit Administration (FTA), stated to Oversight Committee staffers that several individuals employed by DOT would have to be recused from the matter.*

Finding: *This failure on the part of multiple government agencies to hold CTA accountable is particularly troubling in light of the fact that CTA's General Counsel from 2001-2004, Robert Rivkin, is the current General Counsel of the DOT and Valerie Jarrett, Chair of the CTA from 1995 to 2003, is a Senior Advisor to President Obama.*

The Illinois Auditor General declined to report CTA's overstatements of VRM to the Department of Transportation, despite the auditor's claim that this was required by the audit process. Accordingly, in 2009, the auditor independently submitted his report to the Department of Transportation's (DOT) Office of Inspector General (IG). In 2011, he approached the U.S. House of Representatives Committee on Government Oversight and Reform (Oversight Committee) by email regarding CTA's over-statement of its VRM data.²⁰ A redacted e-mail from the auditor to an Oversight Committee staffer reveals his allegations that overreporting occurred:²¹

²⁰ Auditor May 3 E-mail, *supra* note 17.

²¹ *Id.*

From: _____ [mailto:_____@earthlink.net]

Sent: Tuesday, May 03, 2011 6:15 PM

To:

Subject: FW: FTA Grant Program

_____ : OK, let me start over.

I am going to send you the materials broken into two parts, one for each of the two issues with the 49 USC5307 "formula" grant program.

As we have discussed, I am giving you the materials, and a methodology for presenting this to DOT OIG, with the understanding that we will make a reasonable attempt to keep my name out of this, at least formally, at this point. If there is a desire to have a hearing on this at some point, let's talk about that then.

The first attachment is a Word™ document that I prepared while part of the team doing of performance audit of the Chicago Transit Authority for the State of Illinois Office of the Auditor General. This 25-page document, written the style of the School of Physically Painful Prose, was intended to be a technical document discussing the matters that derived from our finding that the Chicago Transit Authority was significantly overstating its reported bus vehicle revenue hours, which had two implications for our work at the time:

1. We were doing a performance audit, which included a lot of performance metrics and, if you are doing that, you have to make sure that the data you are using has a reasonable degree of assurance – and this didn't. therefore, we had to use other performance indicators.
2. While the above meant that we had to change our contractual work, the bigger deal was, by overstating bus vehicle revenue miles by improperly classifying deadhead miles as revenue miles, CTA was, in essence, submitting a false claim to the Federal government in the amount of over a million dollars a year, likely several million, and that this had evidently been going on for more than two decades.

The auditor's conclusions were then forwarded via email to Calvin L. Scovel, the DOT IG, and Peter Rogoff, Administrator of the Federal Transit Administration (FTA), by the Oversight Committee on May 3, 2011:²²

From: _____ [mailto:_____@mail.house.gov]

Sent: Tuesday, May 03, 2011 7:27 PM

To: Scovel, Calvin L.

Cc: Rogoff, Peter; Calvaresi-Barr, Ann; Dixon, Lou E.; Barry, Timothy M; Dettelbach, Brian A.; Come, Joseph W.; Sturniolo, Maria

Subject: FW: FTA Grant Program

From: _____ [mailto:_____@earthlink.net]

Sent: Tuesday, May 03, 2011 6:15 PM

To:

Subject: FW: FTA Grant Program

On May 4, 2011, Mr. Scovel responded to the Oversight Committee, copying Mr. Rogoff and confirming that the issue would be investigated:²³

22 May 3 E-mail, *supra* note 6.

23 May 4 E-mail, *supra* note 6.

From: Scovel, Calvin L. [mailto:Calvin.Scovel@oig.dot.gov]
Sent: Wednesday, May 04, 2011 4:59 AM
To:
Cc: Rogoff, Peter (FTA); Calvaresi-Barr, Ann <OIG>; Dixon, Lou E <OIG>; Barry, Timothy M <OIG>; Dettelbach, Brian A <OIG>; Come, Joseph W <OIG>; Sturniolo, Maria <OIG>
Subject: RE: FTA Grant Program

Thank you, Mr _____ -we will include these matters in our review and communicate further with you.

Cal Scovel
DOT IG

Mr. Rogoff further responded on May 24, 2011, stating that several individuals employed by DOT would have to be recused from the matter (presumably for conflicts of interest) and suggested that the FTA's Deputy Chief Counsel, Scott Biehl, be consulted:²⁴

From: peter.rogoff@dot.gov [mailto:peter.rogoff@dot.gov]
Sent: Tuesday, May 24, 2011 1:17 PM
To: Scovel, Calvin L.; [@mail.house.gov
Cc: Calvaresi-Barr, Ann; Dixon, Lou E.; Barry, Timothy M; Dettelbach, Brian A.; Come, Joseph W.; Sturniolo, Maria; Biehl, Scott
Subject: RE: FTA Grant Program](mailto:@mail.house.gov)

Cal: I asked my Deputy Chief Counsel to look into this matter further. He is still gathering information. It's noteworthy that the State Auditor chose not to follow up on this finding. At the same time, I understand that there is some data that compares CTA's deadhead hours to those of like-sized agencies...data that raises some questions about CTA's interpretation of our reporting requirements. Let me encourage your staff to be in touch with my Deputy Chief Counsel, Scott Biehl (copied) on this matter as I have other folks in the agency that will be necessarily recused. We should take care not to trip over each other if we both decide to dig further into this matter. Many thanks to you and Mr. _____ for calling this to our attention. -P

Mr. Scovel further responded by email that same day, noting his intention to follow up with Mr. Biehl and agreeing that conflicts should be resolved going forward:²⁵

From: Scovel, Calvin L. <Calvin.Scovel@oig.dot.gov>
Sent: Tuesday, May 24, 2011 6:12 PM
To: Rogoff, Peter;
Cc: Calvaresi-Barr, Ann; Dixon, Lou E; Barry, Timothy M; Dettelbach, Brian A.; Come, Joseph W.; Sturniolo, Maria; Biehl, Scott
Subject: RE: FTA Grant Program

Thank you, Peter. I'm just back from one hearing this afternoon and resetting my sights on another tomorrow.

We have been reviewing options for our response to the matters brought to our attention by Mr. _____ and would like to discuss further with Scott Biehl of your office. We will contact Scott by the end of the week. And I fully concur that we must deconflict our actions going forward. Greatly appreciate your attention and cooperation in this case--

Cal

24 Rogoff May 24 E-mail, *supra* note 6.

25 Scovel May 24 E-mail, *supra* note 6.

CoA is not aware of any investigation that DOT, DOT OIG, or FTA has conducted into CTA's fraudulent overreporting of its VRM, despite having constructive knowledge of potential fraud since 2009.

VI. CAUSE OF ACTION'S INVESTIGATION

Finding: *Evidence of fraud has been provided to the Department of Transportation, the Department of Transportation Office of Inspector General and the Department of Justice, yet it appears no federal investigation has commenced. On March 28, 2012, Cause of Action asked the Department of Justice to investigate fraud by the CTA. On September 7, 2012, CoA sought records from the DOT and DOT OIG concerning DOT OIG's investigation (or lack thereof) of CTA's reporting of bus vehicle revenue miles. Despite the public interest in this information, CoA's requests for expedited processing were denied.*

Cause of Action (CoA) became aware of CTA's fraudulent overreporting of its VRM and, on March 28, 2012, wrote a letter to the Honorable Tony West, Acting Associate Attorney General, Department of Justice requesting an investigation. CoA's March 28, 2012 letter summarized much of the discussion above.²⁶ CoA is not aware of any investigation by DOJ into CTA's overreporting of its VRM.

In light of its concerns regarding CTA's fraudulent reporting of its bus VRM, Mr. Scovel's expressed intention to investigate the matter, and the potential conflicts of interest involved, on September 7, 2012, CoA submitted a FOIA request to DOT seeking communications between DOT OIG and any Congressional oversight committee concerning allegations of CTA misreporting of bus vehicle revenue miles, as well as documents relating to any investigation by DOT's OIG concerning CTA and its reporting of bus vehicle revenue miles.²⁷ CoA simultaneously submitted an almost identical FOIA request to the DOT OIG as well. Both FOIA letters contained a request for expedited processing, based on the urgency of informing the public of any investigation (or lack thereof) by DOT into CTA's NTD reporting.

Pursuant to DOT's regulations, it must provide a response to a request for expedited processing of a FOIA request within ten business days, where there is a particular urgency to inform the public of actual or alleged government activity.²⁸ The standard statutorily-required response time for a FOIA request is twenty business days. More than a month has passed since CoA submitted its FOIA requests. Notwithstanding this deadline, neither DOT, nor its OIG has provided a production or substantive response to CoA's FOIA requests. Moreover, CoA's requests for expedited processing have been declined, despite the urgent public interest involved in this matter.

Finding: *This failure on the part of multiple government agencies to hold CTA accountable is particularly troubling in light of the fact that CTA's General Counsel from 2001-2004, Robert Rivkin, is the current General Counsel of the DOT, and Valerie Jarrett, Chair of the CTA from 1995 to 2003, is a Senior Advisor to President Obama.*

²⁶ Letter, [redacted] to The Honorable Tony West, Acting Assoc. Att'y Gen. of the U.S., Dep't of Justice (Mar. 28, 2012) (attached hereto as Exhibit 1).

²⁷ FOIA Request Letter from [redacted], Chief Oversight Counsel, Cause of Action, to Fern Kaufman, Office of Inspector Gen., Dep't of Transp. FOIA Office (Sept. 7, 2012) (on file with CoA).

²⁸ 49 C.F.R. 7.31(c)(4).

As noted above, several individuals formerly and currently involved with CTA and DOT have connections that raise questions concerning the propriety of any investigation (or lack thereof) into CTA's overreporting of VRM. Robert S. Rivkin, the current General Counsel of the U.S. Department of Transportation, was General Counsel of the Chicago Transit Authority from 2001 to 2004, during the time CTA was likely overreporting its VRM.²⁹ Valerie Jarrett, Senior Advisor to the President, was Chair of CTA from 1995 to 2003.³⁰ As of April of 2009, Jarrett was still receiving deferred compensation from the Chicago Transit Authority.³¹

VII. CONCLUSION

In light of CTA's clear under-reporting of its Vehicle Revenue Miles, possibly dating back to 1982 and the potential conflicts of interest that exist between CTA, DOT, and the Administration, independent investigation into CTA's NTD reporting is clearly warranted. Notwithstanding several reports of this information to DOT, and one request that DOJ investigate the matter, there is no evidence that any investigation has commenced. As long as present circumstances persist, CTA will likely continue receiving a greater portion of transit dollars than that to which it is entitled, to the detriment of other transit systems in large cities throughout the country.

29 U.S. Dep't of Transp., *Robert S. Rivkin*, DOT.GOV, <http://www.dot.gov/mission/robert-s-rivkin> (last visited Oct. 15, 2012).

30 Lynn Sweet, *The Valerie Jarrett Story. Named Senior Obama White House Advisor*, CHICAGO SUN-TIMES BLOG (Nov 15, 2008, 12:57 PM), http://blogs.suntimes.com/sweet/2008/11/the_valerie_jarrett_story_name.html.

31 Editorial, *White House Wealth: President Obama's Team Virtually All Chicago Millionaires*, CHICAGO TRIBUNE (Apr. 9, 2009), http://articles.chicagotribune.com/2009-04-09/news/0904080851_1_clinton-white-house-investment-private-sector.



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